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ELECTION TRIBUNAL, SALEM.

NOTIFICATION

Salem, the 26th May 1952

In pursuance of the provisions of sub-section (1) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under section 81 thereof is published for information:—

ELECTION PETITION No. 35 of 1952

**BEFORE THE ELECTION COMMISSIONER,
NEW DELHI**

PETITION No. 35 of 1952

K. Subramanyam.

... Petitioner

vs.

- | | | |
|---|---|--------------|
| 1. S. V. Satyanathan,
2. D. K. Gurunatha Chettiar, B.A., B.L.
3. M. G. Natesa Chettiar. | } | Respondents. |
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*Petition under section 100 of the Representation
of the People Act.*

The abovenamed petitioner begs to state as follows:—

1. The petitioner is son of V. R. Krishna Iyer, aged about 54 years, Hindu, Brahmin, residing at 91, Karuppa Goundar street, Coimbatore, which is his address for service of all process, summons and communication.

2. The first respondent is the son of name not known, aged about 50 years, sole proprietor of N. S. Motor Service and residing at Shankaridrug. His address for service is Proprietor, N. S. Motor Service, Sankaridrug, Salem District.

The second respondent is the son of name not known, aged about 52 years, residing at Dharmapuri, Salem District, which is his address for service.

The third respondent is the son of name not known, aged about 50 years. His address for service 'M. G. Natesa Chettiar, M.B.A., Dharmapuri'.

3. In or about the last week of November, 1951, the petitioner abovenamed and the respondents herein filed their respective nomination papers for contesting the election to the House of the People from Dharmapuri Parliamentary constituency.

4. At the time of the scrutiny of the nomination of the petitioner and respondents herein, objection was taken by the petitioner to the candidature of the first respondent herein under Section 7(d) of the Representation of People Act, on the ground that the first respondent has entered into a contract with the Government of India for his own benefit for carrying of 'Mail' between Salem and Yercaud in his bus service for money consideration. The petitioner herein also filed a statement containing the above objection to the nomination of the first respondent before the said Returning Officer on 28th November, 1951.

5. After hearing the objection, the Returning Officer overruled the objection of the petitioner aforesaid on the ground that the first respondent could not decline to carry Mails in his bus service if called upon to do so by the Government and therefore the first respondent was not disqualified under any of the provisions of section 7(d) of the Act to contest the election. The nomination of the first respondent was held to be valid by the Returning Officer and the first respondent was allowed to contest the election.

6. The nomination of respondents 2 and 3 was also held to be valid along with that of the petitioner herein.

7. In the election that took place for the said constituency the first respondent herein was declared elected on the ground that he polled more number of valid votes than the petitioner and respondents 2 and 3 herein and the result of the said election was duly established in the *Gazette of India* during the last week of January, 1952.

8. The petitioner submits that the acceptance of the nomination of the first respondent by the Returning Officer is improper and invalid, as the first respondent is disqualified under section 7(d) of the Act.

9. The first respondent is the sole proprietor of N. S. Motor Service, plying passenger buses between Salem and Yercaud. He has entered into a contract with the Government of India for money consideration for the carriage mail between Salem and Yercaud and between the intermediate station. The respondent has under the said contract undertaken to do service, to wit, carrying of 'Mail' which service has been undertaken to the Government of India for his own benefit.

10. The plea of the first respondent that he was obliged to do that service under section 160(b) of the Madras Motor Vehicles Rules and as such, it is an involuntary contract, is extremely ingenuous and wholly untenable. There was no compulsion on the first respondent to run bus service at all and in order to secure the requisite permit for the same, if the first respondent undertakes to carry 'mail' also, it cannot be suggested that such an undertaking was a statutory obligation over which he has no control. The first respondent cannot be permitted to escape the mischief of section 7(d) of the Act by advancing such an idle contention.

11. The petitioner further submits that it is not disputed that the first respondent has undertaken to do service for the Government of India for his own benefit within the meaning of section 7(d) of the Act.

12. The petitioner further submits that the order of the Returning Officer dated 28th November, 1951 holding the nomination of the first respondent as proper and valid is erroneous and bad in law.

13. The petitioner, therefore, submits that the nomination of the first respondent is improper. The first respondent having been declared elected for the Dharmapuri Parliamentary Constituency, the petitioner submits that the result of the said election has been materially affected by improper acceptance of the nomination of the first respondent.

14. The petitioner, therefore, prays that this Hon'ble Tribunal should be pleased to declare that the whole election to Dharmapuri Parliamentary Constituency is void and pass such further or other orders as regards petitioner's costs and further reliefs as the Tribunal may deem fit and proper in the circumstances of the case.

I, K. Subramanyam, the petitioner abovenamed, do hereby declare that what is stated in the foregoing paragraphs is true to my knowledge.

Dated 3rd March, 1952.

(Sd.) K. SUBRAMANYAM, Petitioner.

True copy

Notice is hereby given that the above petition is posted before the Election Tribunal, Salem sitting in the District Court Hall, Salem at 11 A.M. on 10th July, 1952. Any other candidate wishing to be added as a respondent to the above petition may apply in writing at any time within 14 days after the date of publication of this notice. Such a candidate shall give security for costs to the extent of Rs. 1,000 under section 119 of the Representation of the People Act 1951.

District Court, SALEM;

Dated, 18th April, 1952.

S. NATARAJA NADAR, Chairman,
Election Tribunal, Salem.

